

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JOHN W. COLEMAN,

Plaintiff - Appellant,

v.

MICHAEL CHERTOFF, Secretary,
Department of Homeland Security; et al.,

Defendants - Appellees.

No. 05-16040

D.C. No. CV-05-00431-EMC

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Edward M. Chen, Magistrate Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

John W. Coleman appeals pro se from the district court's order dismissing his action alleging that he was retaliated against in connection with his application to become an airport screener with the Transportation Security Administration.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim, *ASW v. Oregon*, 424 F.3d 970, 974 (9th Cir. 2005), and we affirm.

The district court properly dismissed Coleman's action because in his amended complaint, Coleman did not allege that he had engaged in a protected activity, and therefore failed to make out a prima facie case of retaliation. *See Villiarimo v. Aloha Island Air, Inc.*, 281 F.3d 1054, 1064 (9th Cir. 2002) (listing elements of prima facie case).

Coleman's remaining contentions are without merit.

Coleman's motion requesting that his case "be reviewed by the Pro Bono Program" is denied.

AFFIRMED